Exhibit No. 207

Staff – Exhibit 207
Brad Fortson Testimony
Rebuttal
File No. EO-2023-0136

Exhibit No.:	
Issues:	*MEEIA one-year extensions, IRP No-DSM plans vs. 2023 IRP preferred plan, earnings opportunity, cost-effectiveness, previous Commission concerns*
Witness:	*Brad J. Fortson*
Sponsoring Party:	*MoPSC Staff*
Type of Exhibit:	*Rebuttal Testimony*
Case No.:	*EO-2023-0136*
Date Testimony Prepared:	*April 26, 2024*

MISSOURI PUBLIC SERVICE COMMISSION

INDUSTRY ANALYSIS DIVISION

ENERGY RESOURCES DEPARTMENT

REBUTTAL TESTIMONY

OF

BRAD J. FORTSON

UNION ELECTRIC COMPANY
d/b/a AMEREN MISSOURI

CASE NO. EO-2023-0136

Jefferson City, Missouri
April 2024

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CASE NO. EO-2023-0136

Q. Please state your name and business address.

A. My name is Brad J. Fortson, and my business address is Missouri Public Service Commission, 200 Madison Street, PO Box 360, Jefferson City, MO 65102.

Q. Are you the same Brad J. Fortson that filed direct testimony on March 1, 2024, in this case?

A. Yes, I am.

EXECUTIVE SUMMARY

Q. What is the purpose of your rebuttal testimony?

A. My rebuttal testimony will discuss Missouri Energy Efficiency Investment Act ("MEEIA") Cycle 3 one-year extensions, previous Integrated Resource Plan ("IRP"), No-DSM plans compared to the 2023 IRP preferred resource plan"), MEEIA Cycle 4 earnings opportunity, cost-effectiveness of prior and proposed MEEIA cycles, and previous Commission concerns with MEEIA Cycle 2 that relate to MEEIA Cycle 4.

Q. What is the overall purpose of Staff's rebuttal testimony?

A. Staff's overall position in its rebuttal testimony is that it is not reasonable at this time for the Commission to approve a MEEIA demand-side management ("DSM") program portfolio and its extraordinary ratemaking authority for a number of reasons including, but not limited to, not showing the work that supports the Amended Application and the large amount of ratepayer costs. Staff's rebuttal testimony builds off its direct testimony in this case and addresses concerns with Union Electric Company d/b/a Ameren Missouri's ("Ameren Missouri" or "Company") *Amended and Supplemental Application to Approve DSIM*[1] *and Demand-Side Management Portfolio and Plan, and Request for Variances* ("Amended Application") and associated testimony filed by Ameren Missouri witnesses[2] on January 25, 2024.

MEEIA CYCLE 3 ONE-YEAR EXTENSIONS

Q. Have changing conditions been a major contributing factor to the 2022, 2023, and 2024 one-year MEEIA extensions as opposed to the multiyear MEEIA portfolios previously approved?

A. Yes. On June 4, 2018, Ameren Missouri filed its *Application To Approve DSIM And Demand-Side Management Portfolio And Plan, Request For Variances, And Motion To Adopt Procedural Schedule* ("MEEIA Cycle 3") in Case No. EO-2018-0211. This case ultimately settled, and on December 5, 2018, the Commission approved the *Stipulation and Agreement*. The parties agreed to a 3-year plan from 2019 – 2021.[3] Since then, the parties have agreed, and the Commission has approved, three subsequent 1-year extensions for 2022, 2023, and 2024.

As a result of negotiations, and certain changing conditions both Staff and OPC raised concerns over, the stakeholders filed an *Unanimous Stipulation and Agreement Regarding the Implementation Certain* [sic] *MEEIA Programs Through Plan Year 2022* ("2022 Extension Stipulation") on July 10, 2020. Certain concerns of Staff and OPC as it

[1] Demand-Side Programs Investment Mechanism.
[2] Direct Testimony of Timothy E. Via, Antonio M. Lozano, Jeffrey R. Huber, and Jeff R. Brueggemann.
[3] The low-income programs were approved for six years (2019 – 2024).

relates to changing conditions were addressed by some of the following agreed upon terms of the 2022 Extension Stipulation:

- Ameren Missouri will discontinue the Business New Construction program.
- Ameren Missouri will withdraw its proposed Business Education program.
- The Throughput Disincentive ("TD") for 2022 will utilize an 82.5% net-to-gross ("NTG") factor with no true-up.
- EO penalties and performance bonuses were created.

The Commission issued its *Order Approving Stipulation and Agreements* on August 5, 2020*,* approving the 2022 Extension Stipulation.[4]

As a result of negotiations, and certain changing conditions both Staff and OPC raised concerns over, the stakeholders filed a Non-*Unanimous Stipulation and Agreement Regarding the Implementation Certain MEEIA Programs Through Plan Year 2023 and Motion for Expedited Treatment* ("2023 Extension Stipulation") on October 13, 2021. Certain concerns of Staff and OPC as it relates to changing conditions were addressed by some of the following agreed upon terms of the 2023 Extension Stipulation:

- A $500,000 penalty will apply if a minimum spend of $2.5 million is not achieved with small business customers (defined as 2M).
- A $500,000 penalty will apply if Commercial programs do not spend at least $6.5 million on non-lighting measures.
- There will be a $150,000 penalty if administrative overhead for low-income programs exceeds 30% of low-income spend.

[4] The *Agreement in Lieu of Change Requests* was also approved as a part of the Commission's *Order Approving Stipulations and Agreements* filed on August 5, 2020.

- Additional EO penalties and performance bonuses were created.

The Commission issued its *Order Approving Stipulation and Agreement Regarding MEEIA Plan Year 2023, Approving Tariff Sheet, and Granting Variances* on October 27, 2021, approving the 2023 Extension Stipulation.

As a result of negotiations, and certain changing conditions both Staff and OPC raised concerns over, the stakeholders filed a *Non-Unanimous Stipulation and Agreement Regarding the Implementation of Certain MEEIA Programs Through Plan Year 2024* ("2024 Extension Stipulation") on August 3, 2023. Certain concerns of Staff and OPC as it relates to changing conditions were addressed by some of the following agreed upon terms of the 2023 Extension Stipulation:

- Additional EO penalties and performance bonuses were created.
- The throughput disincentive for 2024 will utilize a 65% NTG factor for the 2024 portfolio, with the exception of the Low-Income programs. The Low-Income programs will utilize a 100% NTG. There will be no NTG true-up.
- Single-Family Low-Income
  - Ameren, Staff and OPC will explore opportunities to redirect funding allocated towards the Single-Family Low-Income program towards specialized services that can complement select community action agencies in minimizing deferred homes and/or enabling energy efficient customer domiciles that are subject to access and functional needs modifications.

- Monetizing Business Demand Response ("BDR") customer benefits for non-participants
  - Develop and document procedures for maximizing those benefits by season.
  - Identification of demand reduction ability and Midcontinent Independent System Operator ("MISO") resource type by season for Cycle 3 participants in BDR.
  - Determine monetized BDR benefits realized via reduced MISO expense, by season, through fuel adjustment clause ("FAC"), and present/discuss through ongoing quarterly stakeholder meetings.

The Commission issued its *Order Approving Non-Unanimous Stipulation and Agreement Regarding the Implementation of Certain MEEIA Programs Through Plan Year 2024 and Approving Tariff Sheets* on August 23, 2023*,* approving the 2024 Extension Stipulation.

Q. What does all of this illustrate?

A. Ameren Missouri's initial MEEIA Cycle 3 (2019 – 2021) was settled after extensive negotiations. The first one-year extension (2022) took the initial MEEIA Cycle 3 agreement, and improved upon it by modifying programs and adding additional parameters based on certain changing conditions. The second one-year extension (2023) took the first one-year extension agreement, and improved upon it by modifying programs and adding additional parameters based on certain changing conditions. The third one-year extension (2024) took the second one-year extension agreement, and improved upon it by modifying programs and adding additional parameters based on certain changing conditions.

Q. Does Ameren Missouri's MEEIA Cycle 4 Amended Application improve upon the previous agreements?

A. No. In fact, it does much of the opposite. For every attempt the stakeholders made in previous agreements to improve upon the agreed to MEEIA Cycle 3, Ameren Missouri's MEEIA Cycle 4 Amended Application attempts to wholly undo any progress made. Additionally, while we may not be back to square one (MEEIA Cycle 1), we are back in a similar situation as was MEEIA Cycle 2, which is discussed below.

Q. Is Staff proposing another one-year extension to Ameren Missouri's MEEIA Cycle 3?

A. No. To be clear, Staff is recommending rejection of Ameren Missouri's MEEIA Cycle 4 Amended Application. However, any MEEIA application that is approved should follow the structure and parameters as laid out in Staff's direct testimony, specifically the direct testimony of Staff witness Mr. J Luebbert.

PREVIOUS IRP NO-DSM PLANS COMPARED TO 2023 IRP PREFERRED PLAN

Q. Is it reasonable to expect that a fourth MEEIA cycle will materially avoid or defer supply-side investments?

A. No.

393.1075.4, RSMo states in part that:

> Recovery for such programs shall not be permitted unless the programs are approved by the commission, result in energy or demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers.

20 CSR 4240-20.094(4)(C)4. states:

> (C) Demonstration of cost-effectiveness for each demand-side program and for the total of all demand-side programs of the utility. At a minimum, the electric utility shall provide all workpapers, with all models and spreadsheets provided as executable versions in native format with all links and formulas intact, and include:
>
> > 4. The impacts from all demand-side programs included in the application on any postponement or new supply-side resources and the early retirement of existing supply-side resources, including annual and net present value of any lost utility earnings related thereto.

In order for all customers to benefit, what customers pay through MEEIA rates should be lower than the increase to general rates otherwise would be due to new supply-side investment absent MEEIA programs. Historically, the statute language has been interpreted to mean an earnings opportunity should be based on a foregone earnings opportunity from avoiding or deferring a supply-side investment.[5]

Q. Can the deferral or avoidance of supply-side investments be determined through the IRP analysis?

A. The IRP analysis is largely based on assumptions, so if you take those assumptions to be relatively accurate, you can get an idea of what may or may not be deferred or avoided by comparing a plan that includes DSM to a plan that does not. The capacity balances[6] of those plans filed within the IRP can also help in the comparison. However, one thing that needs to be made very clear is that the IRP analysis includes a Realistic Achievable Potential ("RAP") portfolio,[7] Maximum Achievable Potential ("MAP") portfolio,[8] or some

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[5] *Report and Order* issued on October 22, 2015, in Case No. EO-2015-0055.
[6] Capacity balance sheets illustrate the Company's capacity balance for each plan.
[7] Realistic Achievable Potential represents a forecast of likely customer behavior and penetration rates of efficient technologies is the amount of energy use that efficiency can be expected to displace, assuming the most aggressive program scenario possible (e.g. providing end users with incentive payments for the entire incremental cost of more efficient equipment).
[8] Maximum Achievable Potential.

variation of those portfolios over the entirety of the planning horizon[9] as opposed to just the inclusion of the next potential three-year cycle.

Q. Why is that important to clarify?

A. A plan that includes DSM, and indicates future supply-side deferral or avoidance, does not necessarily mean that a one near-term three-year cycle is causing that deferral or avoidance. If you take the IRP analysis and its assumptions to be relatively accurate, any deferral or avoidance of supply-side resources by the inclusion of DSM could be based on multiple, maybe many multiple, three-year cycles, or future cycles. In fact, as further described in Mr. J Luebbert's rebuttal testimony, delaying the implementation of DSM until 2034 could eliminate a potential short capacity position for Ameren Missouri in year 2037, however, implementation of Ameren Missouri's MEEIA Cycle 4 does not.[10] As previously mentioned, 20 CSR 4240-20.094(4)(C)4. states a MEEIA application shall include:

> The impacts from all demand-side programs included in the application on any postponement or new supply-side resources and the early retirement of existing supply-side resources, including annual and net present value of any lost utility earnings related thereto.

Q. What has Ameren Missouri provided in its current MEEIA Cycle 4 Amended Application that is responsive to 20 CSR 4240-20.094(4)(C)4?

A. Staff sent data request MPSC 0129.0 to Ameren Missouri requesting it to:

> 1. Please identify the specific supply-side generation investment that can be avoided or deferred through implementation of Ameren Missouri's proposed MEEIA cycle 4 without consideration of additional MEEIA cycles. 2. Explain how Ameren Missouri identified the specific supply-side generation investment referenced in part 1 of this data request. 3. Provide all supporting documentation and workpapers utilized to

[9] 20 CSR 4240-22.020(43). Planning horizon means a future time period of at least twenty (20) years' duration over which the costs and benefits of alternative resource plans are evaluated.
[10] J. Luebbert rebuttal testimony, Case No. EO-2023-0136, pg. 28.

determine parts 1 and 2 of this request, in original format with links and formulas intact.

Ameren Missouri's response to data request MPSC 0129.0 was:

<u>The requested analysis has not been performed</u>. The Company went through a rigorous and time-consuming analysis in its MEEIA Cycle 3 Application and demonstrated that implementing DSM resources one cycle after another continuously results in more/longer deferrals of supply-side resources than any other combinations of MEEIA cycles that would not span the whole planning period. (emphasis added)

1. Please refer to the Company's 2023 IRP filing. A comparison of Plan C, which has RAP EE and DR and Plan I, which has no further DSM (including no MEEIA Cycle 4) shows Plan I has two additional combined cycles – one in 2028 and another in 2043. Without MEEIA Cycle 4, the resource in 2028 would not be avoided."
2. Since a combined cycle generator provides both capacity and energy, has a lower LCOE than other resources that can deliver similar benefits, the Company has selected it as its primary resource in IRP planning since the 2011 IRP.
3. Please refer to the IRP filings in 2011, 2014, 2017, 2020, and 2023…

Q. What does Ameren Missouri's response mean?

A. Ameren Missouri's response means that it has not done the analysis, and therefore cannot show its work identifying the specific supply-side generation investment that will be avoided or deferred through implementation of its MEEIA Cycle 4.

Q. What has Ameren Missouri provided regarding previous MEEIA cycle applications that were responsive to 20 CSR 4240-20.094(4)(C)4?

A. Staff sent data request MPSC 0130.0 to Ameren Missouri requesting it to:

1. Please identify the specific supply-side generation investment that was avoided or deferred through implementation of Ameren Missouri's past MEEIA cycles. 2. Explain how Ameren Missouri identified the specific supply-side generation investment referenced in part 1 of this data request. 3. Provide all supporting documentation and workpapers utilized to determine parts 1 and 2 of this request, in original format with links and formulas intact.

Ameren Missouri's response to data request MPSC 0130.0 was:

> 1. Requested analysis has not been performed. The Company has achieved over 2.5 million kWh of annual energy savings and over 800 MW of demand savings (at meter) as of 2022- please refer to Steven Wills' testimony in File No. EA-2023-0286, page 84.[11] Prior IRPs have demonstrated the value of DSM resources over the planning horizon. 2. Please refer to response for data request MPSC 0129. See attached File: MEEIA_Lifetime_Savings_Summary_OnlyIncludeDRinPY22
> For part 2, please refer to response for data request MPSC 0129. (emphasis added)

Q. What does Ameren Missouri's response mean?

A. Ameren Missouri's response means that it has not done the analysis, and therefore cannot show its work identifying the specific supply-side generation investment that was avoided or deferred through implementation of its past MEEIA Cycles.

Q. You have previously mentioned 20 CSR 4240-20.094(4)(C)4. Is Ameren Missouri compliant with this rule?

A. No. Ameren Missouri has not provided "The impacts from all demand-side programs included in the application on any postponement or new supply-side resources and the early retirement of existing supply-side resources, including annual and net present value of any lost utility earnings related thereto" required by 20 CSR 4240-20.094(4)(C)4. for its current Amended Application, or for any past MEEIA cycle for that matter,

Q. Going back to IRP analysis and the inclusion/exclusion of a DSM portfolio, do the IRP rules require a plan(s) be analyzed without DSM?

A. Yes. 20 CSR 4240-22.060(3)(A)1. states in part that:

> (3) Development of Alternative Resource Plans…
> (A) The utility shall develop, and describe and document, at least one (1) alternative resource plan… for each of the following cases. The utility shall examine cases that—
> 1. Minimally comply with legal mandates for demand-side resources…

[11] Mr. Wills' surrebuttal testimony at page 84 in Case No. EA-2023-0286 simply illustrates in chart style the 2.5 million kWh and 800 MW.

There is currently no legal mandate for demand-side resources, therefore the rule language above has been interpreted to mean that a case shall be analyzed that includes no additional demand-side resources beyond what the Commission has previously approved (a No-DSM plan). The No-DSM plan has historically illustrated, at least hypothetically, what additional supply-side resources will be needed in lieu of demand-side resources.

Q. What did Ameren Missouri include in its 2014 IRP as a No-DSM plan(s)?

A. Ameren Missouri included three No-DSM plans, Plan L, Plan J, and Plan K. All three No-DSM plans were similar, however since Plan K had the most similarities to the 2014 preferred resource plan ("PRP"), I have chosen to use it in the comparison to the 2023 PRP.

Q. What did Plan K, with No-DSM, include as additional supply-side that the 2014 PRP, with DSM, did not?

A. Plan K, with No-DSM, included the addition of a 600 MW combined cycle in 2023 and 2031.

Q. What did Ameren Missouri include in its 2017 IRP as a No-DSM plan(s)?

A. Ameren Missouri included six No-DSM plans, Plan L, Plan J, Plan I, Plan K, Plan H, and Plan G. Since Plan K included a combination of renewables and non-renewables, I have chosen to use it in the comparison to the 2023 PRP.

Q. What did Plan K, with No-DSM, include as additional supply-side that the 2017 PRP, with DSM, did not?

A. Plan K, with No-DSM, included the addition of 2,000 MW of wind in the years 2031 – 2034, one 352 MW simple cycle in 2034, and two combined cycles totaling 1,200 MW in 2037.

Q. What did Ameren Missouri include in its 2020 IRP as a No-DSM plan(s)?

A. Ameren Missouri included six No-DSM plans, Plan C, Plan W, Plan D, Plan E, Plan F, and Plan G. Since Plan W had the most similarities to the 2020 PRP, I have chosen to use it in the comparison to the 2023 PRP.

Q. What did Plan W, with No-DSM, include as additional supply-side that the 2020 PRP, with DSM, did not?

A. Plan W, with No-DSM, included the addition of one 824 MW combined cycle in 2037 and two 824 MW combined cycles in 2040.

Q. What non-renewable supply-side additions does the Ameren Missouri 2023 PRP include?

A. The Ameren Missouri 2023 PRP (Plan C) includes a 719 MW simple cycle in 2028, a 1,092 MW combined cycle in 2033, a 1,033 MW combined cycle in 2040 and 2043.

Q. How does Ameren Missouri's 2023 PRP compare to the 2014, 2017, and 2020 No-DSM plans explained above?

A. The 2014 No-DSM plan (Plan K) showed that without DSM, a 600 MW combined cycle would be needed in 2023 and 2031. Said another way, the 2014 PRP, with DSM, would avoid the need for a 600 MW combined cycle in 2023 and 2031.

- The Ameren Missouri 2023 PRP's inclusion of 719 MW simple cycle in 2028 and the 1,092 MW combined cycle in 2033 demonstrates that the 2014 No-DSM plan 600 MW combined cycle in 2031 is never really avoided.
- There has been a 150 MW solar facility approved by the Commission on April 12, 2023, and 550 MWs of solar generation approved by the Commission on March 21, 2024. While renewable MWs are not a "one-for-one" with non-renewable

MWs, the combination of these Commission approved solar facilities and the 2023 PRP 719 MW simple cycle in 2028 demonstrates the 2014 No-DSM plan 600 MW combined cycle in 2023 was never actually avoided.

The 2017 No-DSM plan (Plan K) showed that without DSM, the addition of 2,000 MW of wind in the years 2031 – 2034, one 352 MW simple cycle in 2034, and two combined cycles totaling 1,200 MW in 2037 would be needed. Said another way, the 2017 PRP, with DSM, would avoid the need for 2,000 MW of wind in the years 2031 – 2034, one 352 MW simple cycle in 2034, and two combined cycles totaling 1,200 MW in 2037.

- The 2023 PRP also included 2,800 MW of renewables before 2030, and an additional 1,900 MW of renewables through 2036. This clearly demonstrates that the 2017 No-DSM plan 2,000 MW of wind in the years 2031 – 2034 is never really avoided.
- The 2023 PRP's inclusion of a 719 MW simple cycle in 2028 and 1,092 MW combined cycle in 2033 also clearly demonstrates that the 352 MW simple cycle in 2034 is never actually avoided.
- The 2023 PRP's inclusion of 1,092 MW combined cycles in 2033 and the 1,033 MW combined cycle in 2040, combined with the 719 MW simple cycle in 2028 and 1,033 combined cycle in 2043 also demonstrates the 2017 No-DSM plan's two combined cycles totaling 1,200 MW in 2037 is never actually avoided.

The 2020 No-DSM plan (Plan W) showed that without DSM, an 824 MW combined cycle in 2037 and two 824 MW combined cycles in 2040 would be needed. Said another way, the 2020 PRP, with DSM, would avoid the need for an 824 MW combined cycle in 2037 and two 824 MW combined cycles in 2040.

- The 2023 PRP's inclusion of a 1,092 MW combined cycle in 2033 demonstrates the 2020 No-DSM plan 824 MW combined cycle in 2037 is never really avoided. That, coupled with the 2023 PRP's inclusion of a 1,033 MW combined cycle in 2040 and 2043, demonstrates the 2020 No-DSM plan's two 824 MW combined cycles in 2040 are never really avoided.

MEEIA CYCLE 4 EARNINGS OPPORTUNITY

Q. Although you have demonstrated that no supply-side resources have been avoided, has Ameren Missouri received an EO from its MEEIA programs?

A. Yes. Ameren Missouri has received an EO for its MEEIA programs that date back to 2013.[12]

Q. Should Ameren Missouri have been awarded an EO for any of its MEEIA cycles?

A. Based on what we know now, that no supply-side resources have been avoided, Ameren Missouri should have never been awarded an EO.

Q. How much money has Ameren Missouri ratepayers paid for the EO's in previous MEEIA cycles?

A. Based on Ameren Missouri's previous Rider EEIC[13] filings, and its projections through the remainder of MEEIA Cycle 3, Ameren Missouri ratepayers have paid over $108 million.

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[12] For MEEIA Cycle 1 (2013 – 2015) and MEEIA Cycle 2 (2016 – 2018) the EO was awarded after final EM&V of the final year of each cycle. Starting with MEEIA Cycle 3, the EO was awarded annually.
[13] Energy Efficiency Investment Charge.

Q. How much money has Ameren Missouri's shareholders invested in order to receive those millions of dollars of EO?

A. Zero dollars.

Q. Is Ameren Missouri proposing an EO with its MEEIA Cycle 4 application in this case?

A. Yes. Ameren Missouri has proposed an annual average earnings opportunity of approximately $18.7M, which equates to a total of approximately $56.1M for MEEIA Cycle 4. However, Ameren Missouri has proposed performance bonuses that Staff understands could increase the annual average EO to approximately $24.4M, which could equate to a total of approximately $73.2M for MEEIA Cycle 4.

Q. How has Ameren Missouri estimated its earnings opportunity for MEEIA Cycle 4?

A. Ameren Missouri states on page 78 of its Amended Application:

> In order to conservatively estimate the earnings opportunity that is forgone by the Company through the substitution of demand side measures for the supply side resources that would otherwise be needed as demonstrated in the 2023 IRP, the Company conducted an analysis that focuses on capacity in its simplest and most cost effective (from a supply side perspective) form: construction of new combustion turbines.

Q. What supply-side resources does Ameren Missouri claim it will avoid with its 2023 PRP through IRP analysis?

A. As previously mentioned, Ameren Missouri's response to data request MPSC 0129.0 stated that "A comparison of Plan C, which has RAP EE and DR and Plan I, which has no further DSM (including no MEEIA Cycle 4) shows Plan I has two additional combined cycles – one in 2028 and another in 2043. Without MEEIA Cycle 4, the resource in 2028 would not be avoided." However, on April 2, 2024, Ameren Missouri filed its *Notice of Filing Correction to 2023 Integrated Resource Plan, Description of Correction and List of Revisions* to update the previously mentioned Plan I due to an error. Per its update, Plan I (the No-DSM plan) shows that without DSM, a combined cycle in 2028, a simple cycle in 2037, and a combined cycle in 2043 will be needed.

Q. Do you believe that the supply-side resources in Plan I will actually be avoided?

A. No. As Mr. Luebbert's rebuttal testimony explains, delaying the implementation of DSM until 2034 could eliminate a potential short capacity position for Ameren Missouri in year 2037, however, implementation of Ameren Missouri's MEEIA Cycle 4 does not.[14]

Q. What did the Company ultimately base its MEEIA Cycle 4 EO on?

A. The Company has ultimately based its MEEIA Cycle 4 EO by benchmarking to past MEEIA cycles and other vertically integrated utilities. Ameren Missouri received a core EO target of 12.9% in MEEIA Cycle 1, 15.2% in MEEIA Cycle 2 (2016 – 2018), and 15.6% in MEEIA Cycle 3 (2019 – 2021 plus the one-year extensions of 2022, 2023, and 2024).[15] Those percentages are simply a percentage of program budget (MEEIA Cycle 4 budget = approx. $370M; EO = $370M*15.2% = approx. $56M/for the cycle and $56M/3 = approx. $18.7M/year).

Q. Is this a reasonable determination?

[14] J. Luebbert rebuttal testimony, Case No. EO-2023-0136, pg. 28.
[15] Amended Application filed on January 25, 2024, pg. 79.

A. No, for a couple of reasons. First, as previously detailed, Staff does not believe there will be any future supply-side generation avoided meaning there is no foregone earnings. Second, 15.2% is essentially an arbitrary number. As discussed above, Staff is of the opinion that no previous MEEIA cycle has avoided any future supply-side generations and therefore no EO should have been awarded to Ameren Missouri. Therefore, the benchmarked percentages from previous MEEIA cycles are irrelevant.

Q. Can you summarize Staff's position on EO?

A. Yes. Staff's position on EO is that there should be no EO for any Ameren Missouri MEEIA Cycle 4 since there is no foregone earnings opportunity. Further, the Company invests no shareholder dollars in MEEIA. Ratepayers are the sole funder of any MEEIA program. However, if one wanted to consider MEEIA program budget as an "investment" by the Company, the return or, earnings opportunity, should be commensurate with the return that the utility receives on actual shareholder investments. Further, and as mentioned earlier, Ameren Missouri has proposed EO performance bonuses that are essentially a maximum EO above the targeted EO. Any EO above that which is targeted is equivalent to an over-earnings.

COST-EFFECTIVENESS OF PRIOR AND PROPOSED MEEIA CYCLES

Q. How is cost-effectiveness determined for MEEIA programs?

A. 20 CSR 4240-20.094(4)(I) states in part:

> (I) The commission shall consider the TRC test a preferred cost-effectiveness test…

20 CSR 4240-20.092(1)(WW) states:

> (WW) Total resource cost test or TRC means a test that compares the sum of avoided utility costs, including avoided probable environmental costs to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus utility costs to administer, deliver, and evaluate each demand-side program and costs of statewide TRM or TRM and statewide TRM.

20 CSR 4240-20.092(1)(C) states:

> (C) Avoided costs or avoided utility costs means the cost savings obtained by substituting demand-side programs for existing and new supply-side resources. Avoided costs include avoided utility costs resulting from demand-side programs' energy savings and demand savings associated with generation, transmission, and distribution facilities including avoided probable environmental compliance costs. The utility shall use the integrated resource plan and risk analysis used in its most recently adopted preferred resource plan to calculate its avoided costs.

Q. Based on the discussion above in regards to avoided supply-side generation, or the lack thereof, what effect does this have on program cost-effectiveness?

A. With no avoided supply-side generation, the previous MEEIA cycle programs were very likely not cost-effective. Further, with no anticipated actual avoided supply-side generation in the currently proposed MEEIA cycle 4, the programs are more than likely not cost-effective.

Q. The avoided costs definition above also includes avoided energy, transmission, and distribution costs. Are those avoided costs still considered in the cost-effectiveness of MEEIA programs?

A. Yes, they are still considered, and are further discussed by Staff witness Mr. J Luebbert and Ms. Sarah Lange.

PREVIOUS COMMISSION CONCERNS WITH MEEIA CYCLES

Q. Did the Commission express concern in previous MEEIA cycles in regards to non-participating ratepayer benefits and the earnings opportunity?

A. Yes. In its *Report and Order* issued on October 22, 2015, in Case No. EO-2015-0055 ("MEEIA Cycle 2"), the Commission stated in its decision that:

> Simply put, the Commission would approve a MEEIA plan if non-participating ratepayers would be better off paying to help some ratepayers reduce usage than they would be paying a utility to build a power plant. Unfortunately, that is not the case here. The evidence in this case shows that most Ameren Missouri customers will likely receive very little, if any, overall net benefits from the Utility Plan. Approximately 87% of Ameren Missouri's customers are residential customers. And a vast majority of those do not participate in MEEIA.

The Commission went on to say:

> Finally, the performance incentive in the Utility Stipulation lacks a component relating to a reduction of supply-side investment. Without such a component, ratepayers could continue to pay depreciation and rate of return on supply side investments, and then pay again for performance incentives on demand-side programs. This subverts the purpose of the performance incentive. When a company is successful in promoting energy efficiency, the performance incentive should be high. The company should absolutely be rewarded for such an accomplishment given the structure and goals of MEEIA. But the converse should be true as well; MEEIA was never intended to be a blank check.
>
> …However, the Commission cannot approve a MEEIA plan in this case that results in ratepayers paying for more energy savings than the MEEIA plan actually causes. Furthermore, even if the proposed plan included a mechanism for measuring actual energy savings, the Commission cannot approve a plan that rewards the company for reductions in demand without requiring the company to show it has foregone supply-side earnings related to that reduction in demand.
>
> The Commission appreciates the time and effort the parties expended on trying to arrive at a negotiated plan. However, the Commission finds the plan offered by Ameren Missouri does not comply with the purposes or provisions of MEEIA. Thus, the Commission must reject Ameren Missouri's proposed MEEIA plan. It is the Commission's hope that Ameren Missouri will consider this decision and present a new MEEIA plan that all parties and this Commission can support.

Q. Are the concerns the Commission expressed in its decision rejecting Ameren Missouri's initial MEEIA Cycle 2, present in Ameren Missouri's Amended Application for its proposed MEEIA Cycle 4?

A. Yes. Staff's position in this case is that non-participating ratepayers are worse off paying to help some ratepayers reduce usage than they will be paying a utility to build a power plant. Those power plants will be built regardless of MEEIA Cycle 4. Ameren Missouri customers will likely receive very little, if any, overall net benefits from MEEIA Cycle 4. The earnings opportunity (referred to as the performance incentive in MEEIA Cycle 2) again lacks a component relating to a reduction of supply-side investment. As such, and as noted by the Commission in its MEEIA Cycle 2 decision, ratepayers will continue to pay depreciation and rate of return on supply-side investments, and then pay again for earnings opportunities on demand-side programs. The Commission again needs to acknowledge in this case, as it did in MEEIA Cycle 2, that MEEIA was never intended to be a blank check.

Q. Does this conclude your rebuttal testimony in this proceeding?

A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Union Electric Company d/b/a Ameren Missouri's 4th Filing to Implement Regulatory Changes in Furtherance of Energy Efficiency as Allowed by MEEIA	))))	Case No. EO-2023-0136

AFFIDAVIT OF BRAD J. FORTSON

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW BRAD J. FORTSON and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Rebuttal Testimony of Brad J. Fortson*; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

Brad J. Fortson

BRAD J. FORTSON

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 23rd day of April 2024.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: April 04, 2025
Commission Number: 12412070

D. Suzie Mankin

Notary Public